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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,575	05/07/2007	Shahram Miham	LU 6152 (US)	8885
34872 7590 05/13/2009 Basell USA Inc. Delaware Corporate Center II 2 Righter Parkway, Suite #300 Wilmington, DE 19803			EXAMINER NAZARIO GONZALEZ, FORETIRO	
			ART UNIT 1621	PAPER NUMBER
			MAIL DATE 05/13/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/583,575

**Applicant(s)**

MIHAN ET AL.

**Examiner**PORFIRIO NAZARIO  
GONZALEZ**Art Unit**

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11, 13-15, 17-22, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 11, 18, 20, 22 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15, 19, 21 and 25 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

Claims 11, 13-15, 17-22, 25 and 26 are currently pending. Claims 11, 18, 20, 22 and 26 are withdrawn as being non-elected. Claims 13-15, 17, 19, 21 and 25 are being examined.

All rejections and/or objections not explicitly maintained in this office action have been withdrawn per Applicants' claim amendments and/or persuasive arguments.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-15, 19, 21 and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Döhrling et al., Organometallics, Vol. 20, pp. 388-402 (2000), cited by Applicants. The Döhrling et al. article discloses the compound ( $\eta^1:\eta^5$ -cyclo-C<sub>4</sub>H<sub>8</sub>NSiMe<sub>2</sub>OSiMe<sub>2</sub>C<sub>5</sub>H<sub>4</sub>)-CrCl<sub>2</sub>, catalyst compositions and polymerizations of ethylene using said catalysts. See entire document. Note that the compound reads on the claims where Z is OSiMe<sub>2</sub>, A is  $\eta^1:\eta^5$ -cyclo-C<sub>4</sub>H<sub>8</sub>NSiMe<sub>2</sub> and M is Cr. Further it is noted that since the claims recite "A monocyclopentadienyl complex comprising formula Cp-A-A-M<sup>A</sup> (II)", said language does not restrict the formula from other ligands such as Cl. Thus the claims are anticipated by Döhrling et al.

### ***Allowable Subject Matter***

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PORFIRIO NAZARIO GONZALEZ whose telephone number is (571)272-0641. The examiner can normally be reached on M-F (9:30 A.M.-6:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel M. Sullivan can be reached on 571-272-0779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PORFIRIO NAZARIO GONZALEZ/  
Primary Examiner, Art Unit 1621

PNG  
May 11, 2009